

### Remarks

#### A. Period For Reply

A shortened statutory period was set to expire one month from the Restriction requirement of August 5, 2005. August 5, 2005 plus one month was September 5, 2005. This Amendment and Remarks is being filed on or before Wednesday, October 5, 2005 with a petition for a one month extension of time.

#### B. Status

The outstanding Office Action is a Restriction requirement.

#### C. Disposition Of Claims

Claims 1-13, 15-18, and 24-28 are pending.

#### D. Application Papers

Approval of the formal drawings at the appropriate time would be appreciated.

#### E. Priority under 35 U.S.C. §§ 119 and 120

As to domestic priority, this case claims the benefit of U.S. Provisional Application Number 60/407,369 filed August 30, 2002 through U.S. Patent Application Number 10/652,296 filed August 29, 2003. Acknowledgement of this claim for domestic priority would be appreciated.

#### F. Attachments

Applicant filed one PTO-1449 form with the filing of this case on April 7, 2005, one PTO-1449 form on January 2, 2005, and two PTO-1449 forms on October 5, 2005. Consideration of the prior art listed on these PTO-1449

forms and return of the executed PTO-1449 forms would be appreciated.

G. Basis for amendments to the claims and basis for any new claims

Basis for the amendment to claim 1 is found at least in dependent claim 3.

Basis for the amendment to claim 3 is found at least in dependent claim 5, sub-paragraph (e) of claim 15, lines 4 to 10 of page 40, and Figure 24.

Basis for the amendment to claim 5 is found at least in sub-paragraph (e) of claim 15, lines 4 to 10 of page 40, in Figure 24, and the paragraph bridging pages 43-44.

Basis for the amendment to claim 7 is found at least in dependent claim 8.

Basis for the amendment to claim 8 is found at least in dependent claim 10, sub-paragraph (e) of claim 15, lines 4 to 10 of page 40, and Figure 24.

Basis for the amendment to claim 10 is found at least in sub-paragraph (e) of claim 15, lines 4 to 10 of page 40, in Figure 24, and the paragraph bridging pages 43-44.

Basis for the amendment to claim 15 is found at least in dependent claim 3.

Basis for the amendment to claim 17 is found in the paragraph bridging pages 43-44.

Basis for the amendment to claim 28 is found at least in dependent claim 3.

H. The Office Action

H.1. Section 1 of the Office Action

In section 1 of the Office Action, applicant was required to elect a single disclosed species. Applicant

hereby elects Figures 21-24, Species 6, with traverse.

Applicant was advised that a reply to this requirement must include 1) an identification of the species that is elected consonant with this requirement (Figures 21-24, Species 6, please see above), and 2) a listing of all claims readable thereon, including any claims subsequently added; such listing is as follows: Claims 1-13, 15-18, and 24-28 (all of the remaining claims). Such species 6 includes counters engaged to the leg portion such that claims 6, 11 and 13 do in fact read upon species 6. Please see page 42, lines 22-33 of the specification that explicitly calls out counter attachments 404 and 420:

It should be noted that bed rails 500 and 550, except as noted above, otherwise include the features of bed rail 200, including the features of leg portion 202 and rail portion 204. However, peripheral strap 560 is a counter such that the counter attachments 404 and 420 may or may not be used in combination with peripheral strap 560. It can be appreciated that counter attachments 404 and 420 work directly on the frame (such as side tubes 216, 218) of the bed rail 200, 500, 550 while the counter or strap 560 works directly on what is within the frame of the bed rail 200, 500, 550 such that counter attachments 404, 420 may work in combination with counter or strap 560.

#### H.2. Section 2 of the Office Action

In section 2 of the Office Action, it was noted that a call was made to the undersigned but did not result in an election being made. Further in section 2 of the Office Action, applicant was advised that a reply to the present requirement to be complete must include an election of the invention to be examined even though the requirement be traversed.

#### H.3. Section 3 of the Office Action

In section 3 of the Office Action, applicant was reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the

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currently named inventors is no longer an inventor of at least one claim remaining in the application.

I. Conclusion

It should be noted that, via the present Amendment, each of the independent claims in this case now includes a limitation identical or similar to:

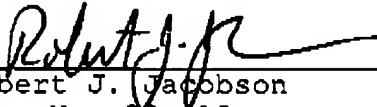
- wherein the rail portion and the leg portion can be relatively drawn to each other and away from each other such that the rail portion is drawable to and away from a position confronting the first side of the bed.

Examination of this case would be appreciated.

Respectfully submitted,

Date:

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